

## REMARKS

Claims 1-8, 12-18, 20, 21, 27-39, 42, 44, 46, 48, 50, 52, 54, and 56 are pending in the application. Claims 40, 41, 43, 45, 47, 49, 51, 53, 55, and 57 are withdrawn from consideration as being directed to non-elected inventions. In the Final Office Action of August 21, 2008, the Examiner made the following disposition:

- A.) Rejected claims 1-8, 12-18, 20, 21, 27-39, 42, 44, 46, 48, 50, 52, 54, and 56 under 35 U.S.C. §102(c) as being anticipated by *Asatsuma, et al. (US 7,176,499)*(“*Asatsuma ‘499*”).
- B.) Rejected claims 1-8, 12-18, 20, 21, 27-39, 42, 44, 46, 48, 50, 52, 54, and 56 under 35 U.S.C. §102(a) as being anticipated by *Asazuma, et al. (JP 2004088134)*(“*Asazuma ‘134*”).
- C.) Rejected claims 1-8, 12-18, 20, 21, 27-39, 42, 44, 46, 48, 52, and 56 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of *Ito, et al. (US 20050042787)*(“*Ito*”).

Applicants previously traversed the rejections and addressed the Examiner’s disposition in the Amendment filed November 21, 2008. Applicant’s inadvertently did not adequately address the obviousness type double patenting rejection, but do so below.

Rejection of claims 1-8, 12-18, 20, 21, 27-39, 42, 44, 46, 48, 52, and 56 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of USP 7,091,056 in view of *Ito, et al. (US 20050042787)*(“*Ito*”);

Applicants respectfully disagree with the rejection.

Applicant’s submit that the Examiner has failed to take into consideration Applicants’ already-established invention date of at least as early as October 12, 2001, which pre-dates *Ito*’s earliest possible U.S. filing date of October 28, 2002 (the filing date of International Patent Application PCT/JP02/11186), and that the rejection is improper. *Ito* is not a proper reference. Accordingly, the rejection should be withdrawn.

### CONCLUSION

In view of the foregoing, it is submitted that claims 1-8, 12-18, 20, 21, 27-39, 42, 44, 46, 48, 50, 52, 54, and 56 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

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